

THE
REVISED ORDINANCES
OF THE
CITY OF CHARLESTON
RELATIVE TO THE
HEALTH DEPARTMENT
AND THE
ACTS OF THE GENERAL ASSEMBLY.
WITH
INJUNCTIONS OF COURTS RELATING THERETO.

PUBLISHED BY ORDER OF BOARD OF HEALTH.
MAY, 1879.

CHARLESTON, S. C.
D. L. ALEXANDER, PRINTER,
173 East Bay St.
1879.

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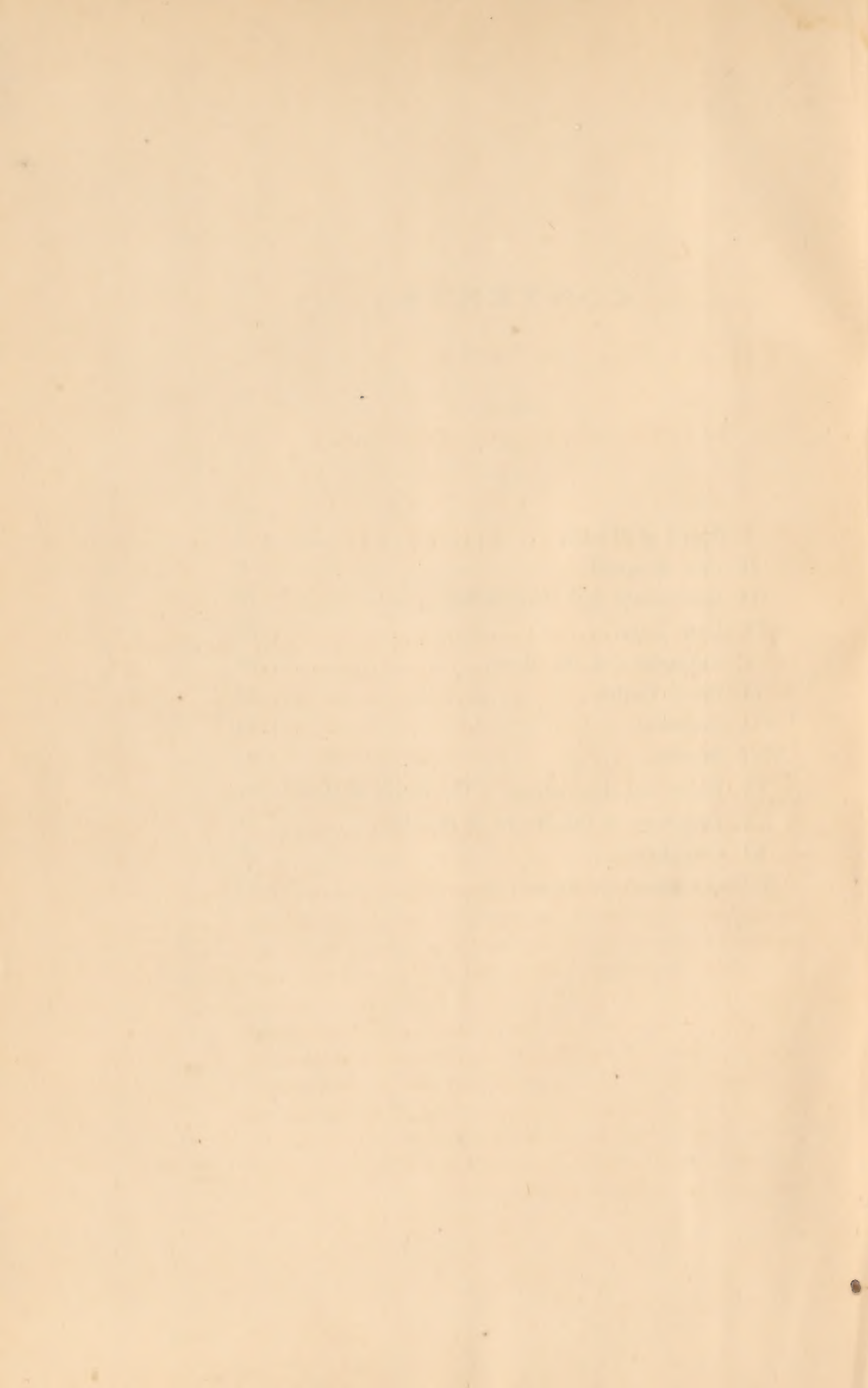
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HEALTHY DELICIOUS

It is a well known fact that the health of a nation is directly proportional to the health of its people. The health of the people is determined by the quality of the food they eat. The food we eat should be healthy and delicious. It should be nutritious and should contain all the essential nutrients that our bodies need. The food we eat should be fresh and should be prepared in a healthy manner. The food we eat should be enjoyed and should be a source of pleasure. The food we eat should be a source of energy and should help us to live a healthy and active life. The food we eat should be a source of happiness and should help us to live a happy and contented life. The food we eat should be a source of love and should help us to live a loving and caring life. The food we eat should be a source of hope and should help us to live a hopeful and optimistic life. The food we eat should be a source of faith and should help us to live a faithful and devoted life. The food we eat should be a source of courage and should help us to live a courageous and brave life. The food we eat should be a source of strength and should help us to live a strong and powerful life. The food we eat should be a source of wisdom and should help us to live a wise and knowledgeable life. The food we eat should be a source of peace and should help us to live a peaceful and harmonious life. The food we eat should be a source of joy and should help us to live a joyful and happy life. The food we eat should be a source of love and should help us to live a loving and caring life. The food we eat should be a source of hope and should help us to live a hopeful and optimistic life. The food we eat should be a source of faith and should help us to live a faithful and devoted life. The food we eat should be a source of courage and should help us to live a courageous and brave life. The food we eat should be a source of strength and should help us to live a strong and powerful life. The food we eat should be a source of wisdom and should help us to live a wise and knowledgeable life. The food we eat should be a source of peace and should help us to live a peaceful and harmonious life. The food we eat should be a source of joy and should help us to live a joyful and happy life.

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HEALTH DEPARTMENT.

REVISED ORDINANCES—CHAPTER X.

BOARD OF HEALTH.

ORDINANCES.

I. The Board of Health shall consist of one physician, one pharmaceutical chemist, two citizens, and two Aldermen, all of whom shall be appointed by the Mayor. The City Registrar shall be *ex-officio* a member of the Board. Within ten days after their appointment, upon notice from the City Registrar, they shall meet and organize as a Board of Health, by electing one of said Board to be Chairman, and by appointing a proper person to be Secretary.

Mar. 30, 1875, §1
Board of Health, how appointed and constituted.

II. The authority, duty, and powers heretofore imposed by any ordinance for the purpose of preserving health or preventing disease, upon any officer or person, are hereby exclusively conferred upon, and shall hereafter be exclusively exercised by, the Board of Health, the members and officers thereof; and the powers of the said Board shall be construed to include the prevention of the sale, or offering for sale of, improper articles; the removal of any matter or thing in or upon the public streets, or places which shall be, in their opinion, detrimental to the public health, and generally the abating of all nuisances injurious to the public health.

Ib., §2.

Duty and powers of preserving health to be exclusively exercised by the Board of Health.

Abating of nuisances.

Ib., §3.

To remove or
remedy any-
thing on any
lot or building,
which may en-
danger public
health.

III. The Board of Health shall have full power and authority to require the owner or occupant of any lot or building in the city to remove or remedy anything on said lot or building, which, in the opinion of the Board, may endanger the public health; and on failure of the owner or occupant to remove or remedy the same, the Board shall have the same done at the expense of said owner or occupant, the said amount to be recovered in any Court of competent jurisdiction.

Ib., §4.

Sanitary In-
spectors.

IV. The Board of Health may appoint a Sanitary Inspector for each Ward, whose duties and salary shall from time to time be prescribed by said Board. Among other duties it shall be incumbent upon each of said Inspectors to visit every lot in their district at least once a month from the 1st of May to the 1st of November in each year, and to report to the Board of Health anything they may find which tends to endanger the public health; and, in the course of such inspection, it shall be their duty to examine the privy vaults, and to disinfect the same; and also the lots, whenever necessary, during said period.

Ib., §5.

Privy vaults.

V. All privy vaults shall be cleaned once a year or as frequently as may be deemed necessary by the Board of Health, and the contents thereof shall be removed only in air tight vessels, to be approved by the said Board of Health; and no person shall engage in the business of emptying the said privy vaults without first obtaining a license from the said Board of Health.

Ib., §6.

Powers in re-
gard to build-
ings, excava-
tions, &c.

VI. The Board of Health may order or cause any building, excavation, matter, or thing, or the sewerage, drainage, or ventilation thereof, which shall be regarded by the said Board as in a condition dangerous or detrimental to health, to be removed, suspended, altered, or otherwise abated, as said Board shall direct. And they may also order any substance, matter, or thing left in any lot, building, street, alley, or other place which said Board may regard as dangerous or detrimental to life or health, to be speedily removed to some proper place, to be designated by them.

VII. The Board of Health may enact such by-laws, Ib., §7.
 rules, and regulations as it may deem advisable, in har- By-laws, rules
and regula-
tions.
 mony with the provisions and purposes of this Ordinance, and not inconsistent with the Constitution or laws of this State; and from time to time may alter, annul, or amend the same. They shall also have power to declare what shall be deemed nuisances injurious to health, and Nuisances.
 to provide for the removal thereof, and to make and enforce regulations to prevent the sale of unwholesome Sale of un-
wholesome
food.
 food.

VIII. It shall be the duty of the police, whenever Ib., §8.
 called upon, to execute the orders of the Board of Powers of the
Board of
Health in the
execution of
orders.
 Health; or the Board of Health may execute such orders through its own officers, or persons; and in the execution of said orders, such officers or persons shall have, in all matters, relating to the exercise of their duties, all the powers and authority exercised by the police force.

IX. If any person shall obstruct or resist the Board of Ib., §9.
 Health, or any member thereof, or any person by them Penalty for
obstructing or
resisting Board
of Health.
 appointed, in the execution of the powers to them given, or in the performance of the duties enjoined on them by this or any other Ordinance in relation to the public health, such person shall forfeit and pay a sum not exceeding one hundred dollars, which may be sued for and recovered in any Court of competent jurisdiction.

X. If any person shall refuse or neglect to comply Ib., §10.
 with any rule, regulation, order, or notice of the Board Penalty for
neglecting or
refusing to
comply with
rules, orders,
&c., of Board
of Health.
 of Health, authorized by any of the sections of this Ordinance, and no other penalty is provided for such neglect or refusal, such person or persons shall be liable to pay a penalty not exceeding fifty dollars for each offence, and five dollars for every day that such neglect or refusal shall continue, which may be sued for and recovered in any Court of competent jurisdiction.

REVISED ORDINANCES---CHAPTER XIX.

CITY HOSPITAL.

ORDINANCES.

Jan. 9, 1872, §1
Oct. 28, 1873, §2.
Feb. 11, 1879,

AN ORDINANCE to repeal Chapter XIX. of the Revised Ordinances, entitled "City Hospital," and to provide a mode for the purchase of supplies for the City Hospital.

Repeal of
Chapter.

SECTION 1. Be it ordained by the Mayor and Aldermen in City Council assembled, and by authority of the same, That Chapter XIX. of the Revised Ordinances of the City of Charleston, and all Ordinances amendatory thereof, be and the same are hereby repealed.

Purchase of
Medical sup-
plies.

SEC. 2. All medicines, instruments, and stimulants, shall be purchased by the Steward of the City Hospital, upon the requisition of the Dean of the Faculty of the Medical College of the State of South Carolina, and the bills certified by him and audited by the Board of Health, shall be sent to Council.

Purchase of
Bakery sup-
plies.

SEC. 3. The Steward of the Hospital shall purchase all necessary supplies for the Hospital, and materials for carrying on the Bakery, (not otherwise provided for) under the order of the Board of Health, and shall certify to all bills rendered for such supplies, which, after being audited by the Board of Health, shall be sent each month to Council.

Duties de-
volving upon
the Steward.

SEC. 4. The Steward of the Hospital shall perform all the clerical duties of the Hospital, and shall keep books of debit and credit of all receipts and expenditures made by him, which shall be open to the inspection of the Mayor, Board of Health and Treasurer of the City, at all times, and shall render a full and detailed report to the Registrar of the City, the first Monday of each month, of the entire receipts and expenditures of money, and send duplicate of same to the Mayor and Council.

Sec. 5. The Dean of the Faculty of the Medical College of the State of South Carolina shall render a full and complete report to the Registrar of the City the first Monday of each month of all medicines, instruments and stimulants ordered by him as above provided, and also of the number of patients during the month and of all the deaths and diseases.

Requirements of the
Dean of the
Faculty.

REVISED ORDINANCES---CHAPTER XLVII.

INTERMENTS AND CEMETERIES.

STATUTES.

Ratified
Dec. 19, 1849.

AN ACT to authorize the City Council of Charleston to Prevent interments in the said City, without a proper Certificate of the Disease of which the Deceased died, and for other purposes.

City Council
authorized to
prevent inter-
ments without
a proper cer-
tificate, and to
pass ordinan-
ces to prevent
the same.

SECTION 1. *Be it enacted by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same,* That from and after the passing of this Act, the City Council of Charleston shall be, and is hereby authorized, to prevent interments within the corporate limits of the said City of Charleston, without a proper certificate of the disease of which the deceased died, and to pass all ordinances necessary to prevent the same.

Empowered
to require phy-
sicians and
coroners to
give certifi-
cates.

SEC. 2. And the said City Council of Charleston are further authorized and empowered to require physicians and coroners, under a penalty, to give such certificates; and they are also empowered to establish a more effectual system for the registration of births, deaths, and marriages, within the said City.

ORDINANCES.

July 2, 1836, §1.
No new burial
grounds to be
established.

I. It shall not be lawful for any person or persons, or bodies politic and corporate, to establish or use within the limits of the City, any place or places for the burial of the dead except such as are already established for those purposes. And if any person or persons, or body politic or corporate, shall presume to establish any such place or places for the purposes aforesaid, such person or persons, body politic or corporate, shall, for each and every offence, forfeit and pay to the use of the city, the

sum of one thousand dollars, and also forfeit and pay, daily, and every day that such place or places are, or may be kept and used for such purposes, the sum of one thousand dollars, to be recovered in any Court having jurisdiction thereof.

II. If any person or persons shall presume to bury any dead in any other burial ground or place within the limits of the City, except in such as are already set apart and devoted to such purposes, such person or persons shall forfeit and pay for each and every such offence, the sum of one thousand dollars, to be recovered in any Court having jurisdiction, one moiety of which penalty shall go to the informer.

Ib., §2.

Penalty for interments in any other burial ground than those already established.

III. It shall not be lawful to open any grave, either in private lots or elsewhere, within the City of Charleston, which contains the remains of a previous burial, for the purpose of a new interment. And before any such grave can be opened for the purpose of removing the dead, a written permit shall be obtained from the Mayor of the City, which shall specify the name of the deceased, the grave-yard or ground from which the body is to be removed, and its proposed disposition: which permit shall be countersigned by the sexton or some other officer of the church or corporation, after the removal, and shall then be filed in the office of the City Registrar.

July 5, 1859, §1.

Unlawful to open any grave containing the remains of a previous burial.

Permit for removing dead body.

IV. It shall not be lawful to inter any dead body in any grave within the City of Charleston, or to prepare any such grave for the reception of any dead body, unless such grave be of the depth of at least six feet.

Ib., §2.

Graves to be at least six feet deep.

V. It shall not be lawful to inter, within the limits of Charleston, (Potter's Field and the place or places appointed excepted,) any person who is not a pew-holder or worshipper in some one of the churches that have now the right of burial, or who is not an owner of a private burial-ground within the grave-yard of some one of said churches, or a member of the immediate family of a pew-holder or owner of a lot.

Ib., §3.

No person to be interred within the city who is not a pew-holder or worshipper in some church.

Ib., §4

Not lawful
to construct
vaults, above
or below
ground, which
shall expose to
view the re-
mains of pre-
vious inter-
ments.

VI. It shall not be lawful hereafter to construct, within the City of Charleston, any vault above or below ground, for the reception of the dead; and no vault now so constructed as to expose to view the remains of any body already interred, shall be opened to receive any additional bodies; and no vault or tomb shall be opened to receive, for temporary deposit, the remains of any stranger or person not entitled by this Ordinance to sepulture within the City.

Ib., §6.

Penalties for
violations of §§
3, 4, 5 and 6.

VII. Any person or persons, or body politic, that shall violate any of the provisions contained in Sections 3, 4, 5, and 6, or shall be concerned in the violation thereof, shall be subject to a penalty of two hundred dollars for each offence; one moiety for the informer, and the other moiety for the benefit of the City Treasury. These penalties to be recovered in any Court of competent jurisdiction.

May 21, 1850, §1.

Committee of
Board of
Health on bur-
ial grounds, &c.

VIII. It shall be the duty of the Chairman of the Board of Health to appoint a committee from said Board, whose special duty it shall be to inspect all cemeteries, burial grounds, and vaults for the dead within the City; and the Board shall have power to grant licenses to hearse-keepers, sextons, and other persons in charge of any place of burial within the City under such rules and regulations as said Board may, from time to time, deem expedient and necessary, subject to the approval of the City Council, and not contrary to the provisions herein contained.

Ib., §2

July 3, 1850, §1.

No hearse-
keeper to con-
vey a corpse
without a li-
cense, or with-
out a certifi-
cate from a
physician or
coroner.

IX. No hearse-keeper, or other person in charge of any hearse, shall receive or carry any corpse or dead body until he shall have first obtained a license from the said Board, nor unless he shall first have been supplied with a certificate of the kind hereinafter required to be furnished by the attending physician or coroner; and it shall be his or their duty, to deliver said certificate, with the dead body, to the sexton, or other person in charge of the burial ground in which it is proposed to inter such dead body, whenever such burial ground is within the limits of the City; and whenever such burial ground is without the limits of the City, the said certificate, or a

Shall deliver
certificate to
the sexton.

duplicate thereof, shall be delivered by said hearse-keeper, or other person in charge of the hearse, to the City Registrar, on the day of interment, under a penalty of twenty-five dollars for each and every failure or neglect so to do. Penalty for neglect.

X. No sexton of any church, or other person having charge of any cemetery, vault, or other burial ground, shall make, or permit to be made, any burial within the same, until he shall have first obtained his license from the Board of Health for that purpose; nor shall he permit any dead body to be interred therein, until he shall first have received from the hearse-keeper, or other person in charge of the hearse, such certificate as he is required by this ordinance to deliver with such dead body; and it shall be the duty of such sexton, or other person in charge of any place of burial, to enter said certificate or certificates in a book, to be furnished by him for that purpose, and to deliver the original certificate or certificates, each day, as received, to the said City Registrar; and for any and every violation hereof, he shall forfeit and pay, for the use of the City, fifty dollars. May 21, 1850, §2
No interments to be made in any place without a license from the Board of Health
Sexton to enter certificates in a book, and deliver originals to City Registrar

XI. The said Board shall furnish to each practicing physician, and the Coroner of St. Philip's and St. Michael's, blank certificates, in the form following, viz: May 21, 1850, §1.
July 5, 1859, §2.
Board to furnish blank certificates to practicing physicians.

CHARLESTON, ———, 18—.

I hereby certify that ——— died on the — day of —, 18—, of —, at No. —, — street, aged — years and — months, a native of —, and resided in Charleston — years and — months, and pursued — as a profession or trade. Form of certificates.

———, M. D., *Attending Physician.*

or ———, *Coroner.*

And when any person shall die in the City, the physician or surgeon who shall have attended such person, as physician or surgeon, shall fill up the blanks in such certificate, to the best of his knowledge, and sign the same, with his name, and shall deliver the same to some member of the family in the house where such person shall have died; in cases where the interment is to take place Duty of physician on death of a patient to fill up certificate.

without the limits of the City, the attending physician or surgeon shall deliver, as above, a duplicate certificate; and in case any person shall die in the City, unattended by any physician or surgeon, it shall be the duty of the coroner to furnish such certificate; and for each and every neglect of the duty herein required, each and every person offending shall forfeit and pay, for the use of the City, twenty-five dollars.

Penalty for neglect.

May 21, 1850, §4. XII. It shall be the duty of said Committee of the

The duty of the Committee of the Board of Health to visit cemeteries, inspect construction of vaults, and order alterations,

Board of Health to see specially to the proper execution of this part of the duties of the said Board, and it shall also be the duty of such Committee, at such times, and as often as they may deem it expedient, to visit all cemeteries, vaults, and burial grounds, and to give such directions about the depth of graves as they may deem expedient to preserve the public health; and it shall be their duty to inspect the construction of all vaults now built, or which may hereafter be built, and to order such alterations to be made in them, or any of them, as they deem the public health may require; and if any person shall refuse or neglect to make any alteration required by said Committee, they, or a majority of them, are hereby authorized to have the said alterations made, at the expense of the owner thereof; and if any person liable to any expense, incurred as aforesaid, shall refuse or delay the payment thereof, the same shall be paid out of the City Treasury, and be afterwards recovered by action of debt from the person or persons so neglecting or refusing, together with a fine of fifty dollars for each and every such failure or refusal.

May make alterations at the expense of owners.

May 5, 1868, §1. XIII. No other person than the coroner, or a physician

or surgeon, who has a diploma or license to practice from some regular medical college, shall give the certificate herein required to be delivered with dead bodies upon interment, and any person offending herein shall pay a fine of fifty dollars for each offence.

Burial certificates, by whom given.

REVISED ORDINANCES---CHAPTER LI.

LOW LOTS.

STATUTES.

AN Act to appoint a Board of Commissioners for the City of Charleston with power and authority to declare in what cases the Streets, Lanes and Alleys of the City shall be widened, and to provide for carrying into execution the objects of the said Board, and for other purposes therein mentioned.

Ratified
Dec. 17. 1817

SECTION 4. That the City Council of the City of Charleston shall have full power and authority, with the concurrence and approbation of the Board appointed by the Legislature, to compel the owners of low lots within the said City, to drain the same, if such draining be practicable, or to fill the same to the level of the streets on which such lots are fronting; also to compel the owner or owners of cellars occasionally filled with water, to cause the same to be pumped out, or otherwise carried off, within five days, or to fill up the same if deemed requisite by the Commissioners appointed by this Act, within two weeks from the notification being given in writing to such owner or owners; and in case of neglect or default, they shall be subject to such penalty as shall be prescribed by the City Council; and in case the owner or owners of such lot or lots, or cellars, upon such notice being given, shall neglect or refuse to fill up such lot or lots, or cause the water in their cellars to be pumped out, or otherwise carried off, the same shall be done by the City Council, and they are hereby authorized and empowered to issue a warrant and collect the expenses arising from the same, or the accrued value of such lots.

City Council
authorized to
compel owners
of low lots to
drain or fill the
same.

Ratified
Dec. 19, 1827.

AN ACT to amend an Act entitled "An Act to appoint a Board of Commissioners for the City of Charleston, with power and authority to declare in what cases the Streets, Lanes, and Alleys of the City shall be widened, and to provide for carrying into execution the objects of the said Board," and for other purposes therein mentioned.

Preamble.

WHEREAS, by the fourth section of an Act of the General Assembly of this State, passed the seventeenth of December, in the year one thousand eight hundred and seventeen, entitled "An Act to appoint a Board of Commissioners for the City of Charleston, and for other purposes therein mentioned," it was provided that the said Board of Commissioners should concur in the exercise of the powers therein granted to the City Council of Charleston, in relation to low lots and cellars within the City of Charleston; and whereas, it has been frequently found impracticable to obtain a meeting and concurrence of the said Board when it was necessary to act with promptness:

Authority for
filling up low
lots and cellars
vested exclu-
sively in the
City Council.

SECTION 1. *Be it enacted*, That so much of the fourth section of the Act aforesaid as requires the concurrence of the Board of Commissioners in the exercise of the powers therein specified, be, and the same is hereby repealed, and that all the power and authority aforesaid, be, and the same is hereby, vested exclusively in the City Council of Charleston.

Ratified
Dec. 18, 1830.

AN ACT to authorize the City Council of Charleston to fill up Low Lots and Grounds in the City of Charleston, in certain cases, and for other purposes.

Low lots in a
state of nuis-
ance to be
filled up.

SECTION 1. *Be it enacted*, That whenever the City Council of Charleston shall be of opinion that any lots or grounds within the City of Charleston, belonging to any person or persons, body or bodies corporate, are in a state of nuisance, or so situated that in warm and unhealthy seasons a nuisance may thereby be created, and the health

of the citizens endangered, or whenever the land or streets in the vicinity of said lots may become liable to injury therefrom, the City Council of Charleston shall have full power and authority to cause a notice to be served on the owner or owners of such lots or grounds, directing him or them to have the same filled up to such extent, in such manner, with such materials, and within such reasonable time, as may be prescribed in such notice; and in case the owner or owners of such lots or grounds shall neglect or refuse to fill up said lots or grounds in conformity with said notice, that then the said City Council are hereby authorized and empowered to have such lots and grounds filled up to such extent, and in such manner as they may think fit.

SEC. 2. All expenses and charges paid or incurred by the said City Council, in case such lots or grounds shall be filled up under their authority and direction, as aforesaid, shall and may be recovered with interest and cost of suit, in an action of debt, to be brought by said City Council in the Court of Common Pleas, against the owner or owners of such lots or grounds: *Provided*, The said expenses and charges do not exceed more than half the value of said lots or grounds.

ORDINANCES.

I. Whenever it shall appear to the Board of Health that any low lots or vacant grounds are in a condition to injure or endanger the public health, it shall be the duty of the said Board of Health to appoint a Board of Inspection, to be composed of the City Registrar and four members of the Board of Health, any three of whom shall be a quorum, whose duty it shall be to enter upon and thoroughly examine such lots or vacant grounds, and determine by the vote of not less than three of the said Board, whether such lots or vacant grounds shall be drained, filled up, levelled, or otherwise so improved, as to remove the nuisance and evil there complained of or existing. And should the said Board of Inspection be of opinion that such lots or vacant grounds ought to be

Notice to be served on owners

Expenses for filling up such lots to be recovered in the Court of Common Pleas.

Ap'l 11, 1837, §2.

Low lots to be examined by a Board of Inspection.

Report to be
made to Coun-
cil.

filled up, levelled, or drained, they shall submit a detailed report to the City Council, setting forth the actual condition thereof, and suggesting the mode, materials, and extent to which such low lots or vacant grounds shall be filled up, levelled, or drained; upon which report Council shall take such order and direction thereon as they may deem expedient.

Ib., §3.

Notice to be
served upon
owners of lots.

II. In case Council shall order the report of said Board of Inspection, made as aforesaid, to be carried into effect, or shall direct such low lots to be filled up, levelled, or drained, it shall be the duty of the City Registrar to serve a notice in writing on the owner or owners of such low lots or vacant grounds, directing said owner or owners to have such lots or vacant grounds filled up, levelled or drained, as Council may require, to such extent, in such manner, with such materials, and within such reasonable time as may be prescribed by the said order of the City Council. And in case of neglect or refusal of such owner or owners to obey said notice, it shall be the duty of the City Registrar to cause such lots or grounds to be filled up, levelled, or drained, in the manner prescribed in the said notice, under the order and direction of the said Board of Inspection. The expenses and charges paid or incurred in case such lots or grounds shall be filled up, levelled, or drained, under the order of the Board of Inspection, shall be paid in the first instance out of the City Treasury, and shall afterwards be recovered with interest and costs of suit, in an action of debt, to be brought by Council in the Court of Common Pleas or City Court, against the owner or owners of such lots or grounds. The City Engineer shall, whenever required, attend the said Board of Inspection on the examination of low lots and grounds, and under their direction make plans for filling, levelling, and draining the same.

City Engineer to attend
Board of In-
spection.

Ib., §4.

Powers of
Board in rela-
tion to drains
and cellars.

III. The said Board of Inspection shall have power to order private drains leading from pumps, wells, or other places on private lots into the public drains of the City, to be built, repaired and altered in such manner and within such a time as they may direct, notice of which shall be served in writing by the City Registrar upon

the owners or occupants of said lots. The said Board shall, in like manner, cause all cellars to be drained or filled up, and houses to be cleansed, and all nuisances prejudicial to the health of the City, to be removed. And in case the owners or occupants of any lot shall neglect or refuse to comply with such notice, the said Board of Inspection shall have power to cause their order, as expressed therein, to be carried into effect by the City Registrar, at the expense of the owners or occupants aforesaid, to be paid in the first instance out of the City Treasury, and afterwards to be recovered with interest and costs in the City Court, by an action of debt against such owners or occupants.

IV. If the owner or occupant of any lot, ground, house, cellar, vault, or enclosure, or any other person found thereon, shall refuse or delay to open the same, and suffer it to be examined by the Board of Inspection, or the City Registrar, acting under their orders, or shall in anywise molest, interrupt, hinder, obstruct, or oppose any member of said Board, or the City Registrar in the discharge of any of the duties prescribed in this Ordinance, or any of the workmen, laborers, or agents employed by the said Board, or the Registrar, in the performance of any work ordered by the said Board, or the Registrar, in execution of the duties herein required, such owner or occupant, or other person offending therein, shall forfeit and pay a sum not exceeding one hundred dollars for every such offence.

Ib., §8.

Penalty for
disobeying
Board of In-
spectors.

V. The owner of any low lot or grounds, which shall be found by the said Board of Inspection in a state of nuisance, and the owner or occupant of any lot, ground, house, cellar, vault, or enclosure, on which any nuisance contrary to the provisions of this Ordinance, shall be found by the said Board, shall, notwithstanding their liability for the charges and expenses attending the filling up, levelling, or draining such low lot or ground, and removal of other nuisances, forfeit and pay a sum not exceeding twenty dollars for each low lot or ground, found in a state of nuisance, or for each lot, ground,

Ib., §9.

Penalty on
owners of lots.

house, cellar, vault, or enclosure on which such other nuisance shall exist. And the owner or occupant, as aforesaid, shall moreover forfeit and pay a sum not exceeding five dollars for each day said nuisance shall remain on such lot, ground, house, cellar, vault, or enclosure, contrary to the notice hereinbefore directed to be served for the removal thereof.

Ib., §10.

City Registrar
after lots are
levelled or
drained to de-
mand pay-
ment.

VI. The City Registrar, immediately after any lot shall be filled up, levelled, or drained, or any cellar filled up, or other nuisance removed by order of the Board of Inspection, under the authority of this Ordinance, shall furnish to the owner thereof a particular statement in writing of the charges and expenses incurred, and also make a demand in writing of said owner, for payment of the same, and he shall therefore return, under oath, to the City Treasurer, a duplicate of such statement and demand, with a copy of the notice originally served. And for default in the performance of any of the duties required of the City Registrar under this Ordinance, he shall be liable to be fined by the Mayor in a sum not exceeding ten dollars for each neglect, refusal, or omission, to be deducted from the amount of his salary. And all notices directed by this Ordinance shall be personally served by the said Registrar on the party to whom they shall be addressed, or in case of absence from the State or County, upon the authorized agent or attorney of said party; and where so served upon such agent or attorney, it shall be deemed a service upon the owner of such lot or premises, so as to authorize the action of the Board of Inspection, in executing, through the City Registrar, their orders and directions upon the default or refusal to comply with said notice as herein provided.

Notices to be
personally
served.

REVISED ORDINANCES---CHAPTER LIX.

PHYSICIANS OF THE POOR.

ORDINANCES.

I. At every annual election of City officers, City Council shall elect six Physicians for the Poor, who, together with the physician supplied by the Trustees of Shirer's Dispensary, shall have charge of the indigent sick of the City.

Jan. 9, 1872, §1.
Dec. 23, 1873, §1.

Physicians of the Poor to be annually elected by Council.

II. The City Registrar shall, from time to time, divide the City into seven Health Districts, and assign one of the aforesaid physicians to each district.

Dec. 23, 1873, §1.

The Registrar to divide the city into health districts.

III. The physicians aforesaid shall be required to live in and have offices in the districts to which they are assigned; to carry with them, on their professional visits, a pocket book of medicines for prompt use among their patients, and to answer calls at all hours. On changing their residence from the district to which they were assigned, the office becomes vacant, and an election to fill the vacancy will be made by Council. No temporary substitute shall be made without the written approval of the Mayor. The Shirer's Dispensary Physician will be under the above regulations, so far as it is practicable.

Jan. 9, 1872, §6.

The physicians to live in their districts.

IV. Each of the said physicians, including the Shirer's Dispensary, shall report, in tabular form, once each quarter of the year, and also annually, to the Registrar, of all important matters connected with their duties.

Ib., §7.

The physicians to make quarterly reports.

V. The salary of each of the Physicians of the Poor shall be at the rate of six hundred dollars per annum, payable monthly; and to enable them to furnish the medicines and stimulants required by their patients, the sum of two hundred dollars each shall be paid them in addition to their salary, but in same form, to wit, monthly, which sum shall also be paid in same manner and purpose to the physician elected by Shirer's Dispensary.

Ib., §8.

Salaries.

REVISED ORDINANCES---CHAPTER LXIII.

PRIVY VAULTS.

ORDINANCES.

I. It shall not be lawful for any vault or privy to be constructed at less than ten feet distant from the line of any street, lane, or alley; and if any of the owners, tenants, or occupants of any lot of land within the limits of the City shall construct or erect any vault or privy thereon, at the distance of less than ten feet from the line of any street, lane, or alley, such person or persons so offending shall forfeit and pay, to the use of the City, the sum of one thousand dollars, to be recovered in any Court having jurisdiction.

Aug. 29, 1836. \$1
Unlawful for any privy to be constructed less than ten feet from the line of street.

Penalty.

II. Privies on lots within the City shall be so constructed that the contents thereof cannot escape therefrom or overflow; and whenever any vault or privy becomes offensive, the same shall be cleansed; and the owner or occupant of the premises on which any vault or privy may be situated, the condition of which shall be in violation of this Ordinance, shall remove, cleanse, alter, amend, or repair the same, within a reasonable time, after notice in writing to that effect shall be given by the Board of Health. In case of neglect or refusal, the same shall be performed by order of the said Board of Health, at the expense of the owner or occupant of such premises, to be first paid by the City, and then recovered, with interest, from such owner or occupant, in the City Court, or in any other Court having jurisdiction.

Apr. 11, 1837. \$6
Privies to be constructed so that the contents cannot overflow.

III. It shall not be lawful for any person or persons to connect any vault, privy, or water-closet upon any lot, with any of the drains of the City, or to discharge or convey the contents thereof into any such drains;

Aug. 15, 1837. \$1
Unlawful for any person to connect any privy or water-closet with the city drains

and any person or persons offending herein, whether he or they be the owners or occupants of such lots, shall forfeit and pay to the City the sum of one thousand dollars for each and every offence; and, also, a further additional sum of one hundred dollars for each and every day that the said grievances, or any of them, shall continue, after written notice from the Mayor or Board of Health to abate or discontinue the same. And any person who shall be concerned or engaged in the building or construction of any means or conveyance or connection for the purposes aforesaid, or any of them, shall forfeit and pay to the City, for each offence, the sum of one hundred dollars.

Penalty on
persons en-
gaged in con-
struction g
works, &c.

IV. All privy vaults shall be cleaned once a year, or as frequently as may be deemed necessary by the Board of Health, and the contents thereof shall be removed only in air-tight vessels, to be approved by the said Board of Health; and no person shall engage in the business of emptying the said privy vaults without first obtaining a license from the said Board of Health.

Mar. 30, 1875, § 5
Privy vaults
to be cleaned
once a year, &c

REVISED ORDINANCES--CHAPTER LXV.

REGISTRAR.

ORDINANCES.

Jan. 9, 1872, §1.

Duties of the
City Registrar.

I. At every annual election of City officers, City Council shall elect an officer to be called the City Registrar, whose duty it shall be to keep his office located at the office of the Board of Health, in the City Hospital, Mazzyck street; open from 9 o'clock A. M. until 2 o'clock P. M., every day, Sundays and holidays excepted, for the convenience of the citizens; and keep a record book for complaints or notices of nuisances to be attended to by him. He shall prepare and publish the weekly bills of mortality, make out and preserve the meteorological and thermometrical observations; keep a public register of all deaths which take place in the City; inquire into the cause of all epidemical diseases, and report the same to the Board of Health, or to the Mayor; make inquiries concerning the state of public health, when required, and report to the Mayor or Board of Health. He shall submit to the Board of Health, on the first Monday in November, of each year, a full report, showing the duties performed, the state of public health during the past year, with such suggestions and recommendations as he may deem expedient and proper.

Id., §2.

Shall be *ex*
officio a mem-
ber of Board
of Health

II. The City Registrar shall be *ex officio* a member of the Board of Health. He shall furnish to the Board, when desired, such information in regard to public health as may be necessary, and report any improvements or alterations, in buildings or streets, that in anywise affect the general health of the City. He shall receive from the sextons the burial certificates, keeping a record of the same, and report to the Mayor all violations of the

Ordinances concerning burials, that come under his notice. He shall attend the meetings of the Board of Health, and carry out all orders of the Board, or of the Mayor, in relation to the sanitary regulations of the City; and from time to time, and whenever ordered to do so, by the Mayor or Board of Health, make a thorough and systematic examination of the City, and he shall cause all nuisances to be abated with reasonable promptness.

III. The City Registrar shall keep a record of all reports rendered from the City Physicians, the Shlirer's Dispensary Physician, and the City Hospital Physician; shall tabulate all such reports, and at the end of each year, including the 31st of December, shall present them to the City Council, with his reports concerning his own specific duties.

Ib., 83.

Shall keep a record of reports of City Physicians, &c.

IV. No officer or clerk in the Health Department or Registrar's office shall be employed without the sanction of the Board of Health.

Ib

V. The salary of the Registrar shall be at the rate of fifteen hundred dollars per annum, payable monthly.

Ib., §5.

Salary.

AN ORDINANCE to provide for the Registration of Births and Marriages.

Ratified
Oct. 12, 1877.

SECTION 1. *Be it ordained by the Mayor and Aldermen of Charleston, in City Council assembled,* That from and after the first day of November, A. D. eighteen hundred and seventy-seven, every Physician, Midwife, or other person who may professionally assist or advise at any birth, shall make and keep a registry of every such birth, and therein enter the time and place of such birth, and the sex and color of every child born and the names, color, occupation and residences of each of the parents, so far as such facts can be ascertained; and every Clergyman, Trial Justice, or other person who may perform a marriage ceremony, shall make and keep a registry of the marriage celebrated, and therein enter the full names of the parties married, the time and place of such marriage, and the color, age, residence and condition of each.

Registration
of Births and
Marriages.

Copy of registration to be presented to City Registrar.

SEC. 2. That it shall be the duty of every person mentioned in the foregoing Section, to present to the City Registrar a copy of such register, signed by such person, or a written statement by him or her signed, of all the facts required to be entered in such registers, within three days after the birth or marriage of any person to whom such registry may or should relate.

SEC. 3. That every person who shall omit to make and keep the registry hereinbefore required, or who shall omit to report a written copy of the same to the City Registrar within three days after any birth or marriage, or who shall wilfully make a false or fictitious entry in his or her record of births or marriages, or in the certified copy of such register delivered to the City Registrar, shall be subject for each and every such omission or false entry to a fine of not more than fifty dollars; and in default of paying the same, shall suffer imprisonment not exceeding thirty days.

Penalty.

Amount appropriated for books and blanks.

SEC. 4. That for the purpose of carrying this Ordinance into effect, the sum of one hundred dollars is hereby appropriated for the purpose of enabling the City Registrar to provide the necessary books and blanks.

Authority of the Board of Health.

SEC. 5. That the Board of Health are hereby authorized to enact all Rules and Regulations, necessary to carry out effectively the provisions of this Ordinance, ratified on the 12th day of October, 1877.

REVISED ORDINANCES---CHAPTER LXX.

S T R E E T S .

ORDINANCES.

XIV. It shall be the duty of every owner of a lot, who may reside thereon, and of the owner of every vacant lot, and of every lot not having a known lessee or tenant residing thereon, and of every lessee, tenant, or occupant of every lot, to cause said lot and the stables, cow-houses, and out-houses thereon, to be carefully swept; and all the dirt, dung, soot, ashes, carrion, garbage, shreds, oyster shells, or other filth or rubbish, to be carried out every day, (Sunday's excepted,) by the hour of 7 o'clock A. M., from the first day of May to the first day of November in every year, and by the hour of 9 o'clock A. M., from the first day of November to the first day of May following, and placed in boxes, barrels, or in heaps, in the street, at the edge of the pavement, opposite their respective lots, but so as not to obstruct the gutter, in a situation from whence the same may be conveniently removed. And any person offending herein, or placing any dirt, filth garbage, or other offal, in any street, lane, alley, or open court, after the hours above named, or on Sundays, shall be subject to a fine of not less than two, nor more than five dollars, for each and every offence, to be imposed by the Mayor or by the Board of Health, whenever, in their opinion, such offence may be detrimental to the public health.

XV. It shall be the duty of every corporate body, or person or persons owning, or having the care, control, or management of any public building, church yard or burial ground, within the City, to cause such public building to be cleansed and swept, and the rank and offensive weeds growing on such grounds and yards to

Sept. 27, 1836, §3
Jan. 18, 1838, §5
Mar. 30, 1873, §2

Garbage, &c.,
to be placed in
the streets
every day by
occupants of
all premises.

Sept. 27, 1836, §4
Mar. 30, 1873, §2

Public build-
ings, &c., to be
cleansed.

be pulled up, collected, and placed in heaps in the street, at the edge of the pavement, in front of such church yard or burial ground, and the filth or rubbish which may be collected in such public buildings, to be placed in like manner in the street, at least once in every fortnight, and as much oftener as may be required by the Mayor or Board of Health. And also to cause the grass which may be growing on such burial ground or church yard, to be removed or cut, and taken away as often as in the opinion of the Board of Health the growth thereof may be so rank or luxuriant as to endanger the health of the City. For every neglect or refusal to discharge the duties enjoined by this Section, the person or persons, or body corporate, so offending, shall be fined in a sum not less than ten dollars, nor more than fifty dollars.

Jan. 19, 1868, §1.
Mar. 30, 1873, §2.

Inspectors to
remove all gar-
bage, &c., from
the streets.

XVI. The Street Inspectors shall be required to have the dirt, filth garbage, and all kinds of offal, removed from the streets, lanes, alleys, and open courts of the City, by the hour of ten o'clock A. M., from the first day of May to the first day of November, in every year, and by the hour of 12 o'clock M., from the first day of November to the first day of May following; and the said dirt, filth, garbage, and offal, shall be deposited by them at such place or places north of Line street as may be designated by the Mayor, with the sanction of the City Council.

To keep the
streets clean.

And the said Inspectors, in addition to the foregoing, shall be required to keep the streets, lanes, alleys, and open courts in their respective divisions, at all times, clean and free from filth; to keep clean and free from obstructions, the gratings of the public drains, and the gutters along the sidewalks, and shall also sweep daily the stone crossings therein; and as often and at such times as the Mayor or Committee on Streets may deem necessary, they shall have the paved streets, lanes, alleys, and open courts, swept or scraped, and the unpaved streets, lanes, alleys, and open courts, raked, and remove and deposit the sweepings, scrapings, and rakings therefrom, at such place or places, north of Line street, as the Mayor shall from time to time, designate. And the said Inspectors shall be liable to a fine of five dollars

for each and every act of omission or default, to be imposed by the Mayor or by the Board of Health, whenever in their opinion such neglect may be detrimental to the public health, and to be deducted from their pay; or the Mayor may, in his discretion, have the work done at the expense and risk of the said Inspectors, and have the sum paid therefor deducted from their pay.

XVII. If any filth, dirt, rubbish, or animal or vegetable matter shall at any time be found in any street, alley, or lane, contrary to the provisions of this Ordinance, it shall be deemed and taken to have been placed there from the lot nearest thereto, and the owner, occupant, lessee, or tenant of such lot shall be fined accordingly, unless he or she can make it appear, to the satisfaction of the Mayor or Board of Health, as the case may be, that it was placed there by some other person, in which case the person guilty of the offence shall be liable to a fine of not less than twenty dollars, nor more than fifty dollars: *Provided*, That where the owner, occupant, lessee, or tenant of such lot shall deny that such dirt, filth or rubbish was thrown from his or her lot, and shall, on being notified thereof, forthwith make oath that he or she doth verily believe that the same was not taken, carried, or thrown out from his or her lot, the person so swearing shall be relieved from the said penalty. *Provided always*, That nothing in this Ordinance contained, shall be construed to extend to the making of drains, filling up low lots, or to the removal of other nuisances than those above specified, which shall be dealt with according to the laws now of force, or hereafter to be prescribed.

XXXI. It shall not be lawful to dig up, open, or disturb the surface of the earth, within the limits of the City, between the first day of June and the first day of October, in any year, for the purpose of paving the streets, of excavating for drains, of laying down gas or other pipes, or of carrying on any other public improvement; and any person or persons, or incorporated company, offending herein, shall be subject to a penalty of

Sept. 27, 1856, §7

Filth found on street shall be deemed to have been placed there from the nearest lot.

July 12, 1853, §1
July 8, 1856, §1.

Surface of the earth not to be disturbed between first of June and first of October.

Exceptions
in favor of gas
companies.

five hundred dollars for each and every offence, to be recovered for the use of the City, in any Court of competent jurisdiction: *Provided*, That any incorporated gas company, or their agent or agents, may at any time during the year lay down service pipes in any street, lane, or alley of the City, in which main pipes have been already laid; upon the express condition and proviso, however, that between the first day of June and the first day of October, in every year, each piece of service pipe shall be laid, and the earth and pavement restored during the day in which the surface of any street, lane, or alley is opened for the aforesaid purpose.

Ratified
Jan. 7, 1878. §2.

AN ORDINANCE to amend an Ordinance entitled "An Ordinance to abolish the office of Street Inspectors and to establish the office of Ward Inspectors," ratified January 7, A. D. 1878.

Amended
duties of Ward
Inspectors.

Be it ordained by the Mayor and Aldermen of Charleston, in City Council assembled, That Section 2 of an Ordinance entitled "An Ordinance to abolish the office of Street Inspectors and to establish the office of Ward Inspectors," be and the same is hereby amended by the addition, after the word "charged" in said Section 2, of the following: "And it shall also be their duty to examine all yards and privy vaults in their respective wards, and report condition of same to the City Registrar, and to perform such other duties as may from time to time be required of them by the Board of Health."

Ratified
June 5, 1878.

AN ORDINANCE to amend Section XIV. Chapter LXX. of the Revised Ordinances of the City of Charleston.

Amended Or-
dinance regu-
lating the
placing of
sweepings of
shops and
stores.

Be it Ordained by the Mayor and Aldermen of the City of Charleston, in Council assembled, that Section XIV., Chapter LXX. of the Revised Ordinances be amended on the ninth line of said Section, page 294, of said Revised Ordinances, by striking out the number "seven" and inserting therefor the number "six," and also by inserting

after the word "removed," on seventeenth line of said Section the words "all merchants, shop-keepers and store-keepers, however, shall place all sweepings and paper from their shops or stores, in boxes or barrels, in front of their doors, at the edge of the pavement."

Ratified in City Council, this fifth day of June, in the year 1878.

RULES AND REGULATIONS
OF THE
BOARD OF HEALTH.

ADOPTED 14TH APRIL, 1875.

MEETINGS.

I. The Regular Meetings of the Board of Health shall be held on Wednesday, in each week, at 5 o'clock P. M., unless otherwise ordered.

II. Four members shall constitute a quorum.

III. Special Meetings may be called by the Chairman or Registrar.

COMMITTEES.

IV. The Standing Committees of the Board shall be seven in number.

1. On Hospitals and Dispensaries, to consist of two members and the Registrar.

2. On Low Lots, Drainage, and Nuisances, to consist of four members and the Registrar.

3. On Burial Grounds, Sextons, and Hearses, to consist of two members and the Registrar.

4. On Epidemics and Public Hygiene, to consist of two members and the Registrar.

5. On Sanitary Condition of Public Institutions, to consist of three members.

6. On Accounts, to consist of three members.

7. On Law and Ordinances, to consist of two members and the Registrar.

V. Special Committees may be appointed on any subject when so ordered by the Board.

ORDER OF BUSINESS.

VI. The following shall be the Order of Business at all meetings of the Board:

1. Reading of Minutes.
2. Registrar's Report.
3. Reports of Standing Committees.
4. Reports of Special Committees.
5. Reports of Sanitary Inspectors.
6. Communications from all Sources.
7. Resolutions and Orders.
8. Unfinished Business.
9. New Business.

VII. All Resolutions shall be submitted in writing.

OFFICE HOURS.

VIII. From 9 to 3 o'clock. Registrar to be present from 12 to 2 o'clock.

LEAVE OF ABSENCE.

IX. Leave of absence may be granted to any employee for a period not to exceed three days on written application, unless otherwise ordered by the Board.

EXPENDITURES.

X. All necessary supplies for this Department shall, when duly ordered, be purchased under the direction of the Registrar and Chairman of the Committee on Accounts, and, as far as possible, by contract, except supplies for the City Hospital, which shall be purchased in accordance with an Ordinance to Provide Physicians, etc., for the Poor of Charleston, ratified January 9th, 1872. [See Chapter LIX., Revised Ordinances.]

REPORTS AND COMPLAINTS.

XI. All employees shall report to the Board through the Registrar.

XII. All complaints, stating grievances, in writing, must be filed with the Registrar for action of the Board of Health at the next ensuing meeting, at which time the complainant must be present, with witnesses, if necessary, and there, orally and under oath, may be examined. Said complaints shall be then acted on at once, if possible.

SECRETARY.

XIII. The Secretary shall be subject to the direction of the Board of Health, and shall keep and authenticate its acts, records, papers, and proceedings; preserve its books and papers, conduct its correspondence, and aid in accomplishing the purpose of the Health Ordinances and Regulations as the Board may direct.

XIV. He shall be under the immediate control and direction of the Registrar, and his office shall be in that of the Registrar.

XV. He shall receive for his services seventy-five dollars (\$75) per month, payable monthly.

DIRECTORY.

BOARD OF HEALTH.

ANDREW SIMONDS, *Chairman.*

ROBERT LEBBY, M. D.

OTTO A. MOSES, Ph. D.

GEO. S. HACKER, Esq.

A. STEMMERMAN, { *Aldermen.*

B. L. WHITE, }

GEO. S. PELZER, M. D., *City Registrar.*

JAMES GILLILAND, *Secretary.*

STANDING COMMITTEES.

Hospitals and Dispensaries—Pelzer, Lebby and Moses.

Low Lots, Drainage and Nuisances—White, Hacker, Pelzer, Stemmermann and Moses.

Burial Grounds, Sextons and Hearses—Stemmermann, White and Pelzer.

Epidemics and Public Hygiene—Moses, Lebby and Pelzer.

Sanitary Condition of Public Institutions—Lebby, Moses and Stemmermann.

Accounts—Hacker, Stemmermann and Lebby.

Law and Ordinance—White, Hacker and Pelzer.

CITY HOSPITAL.

IN CHARGE OF FACULTY OF MEDICAL COLLEGE.

Steward—T. E. Newton.

Matron—E. Fairley.

PHYSICIANS OF THE POOR.

Health District No. 1, embracing Wards 1 and 2—Dr. Stephen T. Lea.

Health District No. 2, embracing Ward 3—Dr. T. Reentz-jerna.

Health District No. 3, embracing Ward 4 — Dr. T. Grange
Simons.

Health District No. 4, embracing Ward 5 — Dr. B. M. Lebby.

Health District No. 5, embracing Ward 6 — Dr. C. H. Schroder.

Health District No. 6, embracing Ward 7 — Dr. Joseph Yates.

Health District No. 7, embracing Ward 8 — Dr. Thomas S.
Grimke.

HEALTH DETECTIVE.

F. Nipson.

OFFICE BOARD OF HEALTH,

Mazyck Street.

THE
STATE OF SOUTH CAROLINA.
CHARLESTON COUNTY.
IN THE COMMON PLEAS.

THOMAS O'BRIEN, GEORGE BUIST, E. L. KERBISON, A.
H. HAYDEN, A. B. MULLIGAN, R. H. McDOWELL, Jr.,
ED. T. McDOWELL, J. H. LOPEZ, H. H. DELEON, J. H.
COLBURN, J. H. SCHULTE, JAS. B. CAMPBELL,

PLAINTIFFS.

against

THE CITY COUNCIL OF CHARLESTON, AND PATRICK P.
TOALE,

DEFENDANTS.

COMPLAINT.

The plaintiffs above named, complaining of the defendants, Patrick P. Toale and the City Council of Charleston, say and allege as follows:

I. That they are citizens, tax-payers, and corporators of the City of Charleston, formerly and at the time hereinafter first referred to known in law as Charles-Town.

II. That by an act of the Governor and Council, and the Commons House of Assembly, of the then Royal Province of South Carolina, entitled,

“AN ACT, To appoint, and authorize commissioners to cut a Canal from the upper end of Broad Street into Ashley River; and to reserve the vacant marsh on each side of said canal for the use of a Common for Charles-Town, and to empower the Commissioners of the Streets in Charles-Town, to remove a certain nuisance in the street commonly called “Allen Street.” Passed April 12, A. D. 1768.—Stats., vol. 7-87.

Commissioners were appointed, authorized, and provision made for cutting a canal or channel from the west end of Broad Street, in a direct line to low water mark on Ashley River; and the land over which said canal would pass, and the banks thereof, was declared "to be a part of Broad Street, in Charles-Town, in as full and ample a manner as if the same had been laid out and continued at the beginning."

That said commissioners were authorized to collect and receive, and did collect and receive, such voluntary contributions as they might think proper to make towards the cost of carrying on and finishing the said work; and immediately after finishing the same, to lay a statement of the receipts and expenditures before the General Assembly of the Province. Some of these plaintiffs derive their titles from these original contributors, whose lands were thus made to bound on a perpetual Common.

That by the fifth section of said Act, it was enacted as follows :

"5. And be it further enacted by the authority aforesaid, that all the vacant marsh land lying on each side of the said canal hereby directed to be made, on the east side of Ashley River, within the limits of Charles-Town, shall forever hereafter be reserved and kept for the use of a Common for Charles-Town; and any grant that may be made or obtained, for the same or any part thereof, is hereby declared to be absolutely null and void."

III. That the upper and west end of Broad Street was, at the date of said Act, no further west than where Savage Street now joins Broad Street on the south, and Franklin Street joins it on the north; and the vacant marsh lands referred to and dedicated, were all the marsh lands from that point westwardly to the channel of Ashley River, and between the present site of Broad Street and Ashley River on the south, and Cummings Creek and Beaufain Street on the north. And the force and effect of said Act, and the above

recited fifth section thereof, was to declare a perpetual reservation and dedication of the same, to be forever thereafter kept for the use of a Common for Charles-Town.

IV. The legal title to said marsh lands remained in the Crown of Great Britian, or in the Province, until the declaration of Independence and the recognition thereof, when it passed to the State, by which it was afterwards, as will appear hereinafter, transferred to the City Council of Charleston. But the reservation, dedication, and use was continued the same, and has never been changed.

V. That on the 13th day of August, 1783, the General Assembly, by an Act, entitled “An Act to Incorporate Charleston,” enacted:

1. That the citizens of Charles-Town immediately thereafter be deemed, and they were thereby, declared to be, a body politic and corporate.

That said town should thereafter be called and known by the name of the “City of Charleston.”

That the name by which the said corporation might sue and be sued, and do all corporate acts, should be “The City Council of Charleston;” giving them power under their common seal to make and establish by-laws, rules, and ordinances; but, providing, that they shall not make any by-laws, nor do any acts repugnant to the laws of the land, or inconsistent with treaties made with foreign nations.

That by the fifth section of said Act, the legal estate in fee in said marsh lands already dedicated for a Common, was, together with other enumerated public lands and buildings within the city, transferred to the City Council in trust, for the use and advantage of the city, as follows:

2. And be it further enacted, by the authority aforesaid, That the fee simple of the following public lands and buildings within the said city, viz: the lands appropriated for the exchange, the beef market, the lower market, the fish market, the market at the western end of Broad Street, with the buildings respectively thereon, and the lands and apparte-

nances belonging thereto —*the marsh lands appropriated by law for a common*; the lands bounded by Queen Street, Magazine Street, Back Street, and Mazyek Street (except two hundred feet square, at the north-west corner thereof, reserved for a Jail), such part of the negro burial ground as is public property, the lands on which the horn work at the north part of the city is situate, and the public lands near the same, purchased of the Wrager and Manigault families; any vacant, low, water lots, fronting any of the streets, shall be vested in the said City Council and their successors, for the use and advantage of the said city, to be leased, sold, improved on, or otherwise disposed of as to the said City Council shall appear most conducive to the welfare and advantage of the said city and the inhabitants thereof.

VI. That said Act of 1783, and the fifth section thereof last above recited, and the transfer thereby of the legal estate in fee in the said marsh lands, did not change, and was not intended to change, the perpetual use for which they had been reserved; and this is manifest on observing the description of them as “the marsh lands appropriated by law for a Common,” placing them also within the inhibition upon the City Council from doing anything repugnant to the laws of the land and to treaties with foreign nations.

VII. That the City Council of Charleston, under and by virtue of their Act of Incorporation or Charter aforesaid, became possessed of the said lands, and mistaking the nature of their title, and consequently, mistaking their duty in respect of them, have claimed the power to lease or sell, or do in their discretion as they might please with them irrespective of the Act of 1768, or of the recognition in their charter that said lands were already appropriated by law.

They have, from time to time, sold and conveyed parts of them for private use, received payment, without saying to themselves the plausible excuse or justification for their acts by applying the sales money to the improvement of the remainder.

VIII. That the City Council, not content with thus defeating the provident intent and purpose of the Acts of 1768 and 1783, for the health and comfort of the citizens, did, in 1853, actually convert the remainder of said lands into a place for the deposit of the city offal, thus creating a nuisance so intolerable to the comfort, and dangerous to the health, of the neighborhood, that the citizens and householders affected thereby, some of whom are the present plaintiffs, brought their bill for relief in the Court of Equity, setting forth their grievance, and praying an injunction; and also that it may be adjudged and decreed, that the said city lands are a Common, and that the City Council have no right or authority to sell or lease them for private use; and that they be ordered forthwith to remove the building which they have permitted, or caused to be erected, at the west end of Broad Street.

Thereupon, on the 24th day of June, 1853, the Court made the following order:

JAMES B. CAMPBELL, GEORGE BUIST, AND OTHERS,

VS.

THE CITY COUNCIL OF CHARLESTON.

South Carolina—Charleston District—In Equity.

[From the Minutes.]

The bill for injunction, read by Mr. J. B. Campbell, who was heard on his motion for injunction, on the opening of the case.

Mr. Porter, for the City Council, opposed the motion.

Mr. Campbell heard in reply, and the following order was made:

“On hearing the bill and affidavits, and Mr. Campbell for the complainants, and Mr. Porter for the City Council, it is ordered that an injunction do issue restraining the City Council, their officers, agents, servants, and workmen from depositing or placing the contents of privy vaults, scavengers' dirt, city offal and garbage, the dead carcasses of animals, decayed and decaying vegetable matter and fruit, and other such like offensive and malarious substances, upon the city lands, or

upon any of the streets of the city west of Rutledge street inclusive, until the first day of December next, or the further order of the Court.

“June 24, 1853.

F. H. WARDLAW.”

IX. The Mayor and City Inspector, disregarding this order, and continuing to deposit the offal as before, on the second day of July, 1853, Chancellor Wardlaw made the following order:

JAMES B. CAMPBELL, GEORGE BUIST, AND OTHERS,

VS.

THE CITY COUNCIL OF CHARLESTON.

On motion of J. B. Campbell, complainants' Solicitor, it is ordered, that the Hon. T. L. Hutchinson, Mayor of Charleston, and Henry W. Casey, City Inspector, do shew cause, at one o'clock to-day, why they should not be attached for a contempt of the authority of this Court, for disregarding and violating the order heretofore made in this cause, in depositing, or causing to be deposited, the city offal and scavengers' dirt on Broad Street; and further, that they do shew cause, if any they have, why they shall not be commanded to remove forthwith all such deposits of the city offal, made in violation of said order, since the date thereof.

July 2, 1853.

F. H. WARDLAW.

The Mayor and City Inspector, beginning to see that there was a higher power than the Municipality of Charleston, appeared in person before the Court, and submitting themselves, promised there should be no repetition of the contempt.

On the 15th day of July, 1853, the City Council answered the bill, admitting that the said Acts of 1768 and 1783, were correctly recited, but that they had always understood and been advised that the grant in the latter Act, superseded the former grant, and that under the latter grant, they hold said lands by a title, which gives them an unrestricted estate, and that they are at liberty, and authorized to sell, or lease the estate or any part thereof. They admit the sale of a large part of said lands, deny that the sales money has been wasted,

and say it has been applied to the welfare and advantage of the inhabitants of Charleston.

But they further say, that as to that portion of said lands lying between Rutledge Street on the east, Beaufain Street and Cumming's Creek on the north, Lynch Street on the west, and Broad Street on the south.

They have always intended to reserve the same, and dedicate them according to the intention of the Act of the Colonial Legislature, for the perpetual use of a Common, for the inhabitants of Charleston; "and," they say, "they are perfectly willing and consent that it may be so decreed and adjudged by this Honorable Court."

Upon the coming in of this answer, the further hearing of the question of title and right to sell or lease, was waived, provided the decree, to be entered on the consent of the City Council, should leave that question open and unsettled, permitting either party to apply for any further order at the foot of the decree.

And thereupon, on the same day, the 15th day of July, 1853, the following decree was made and filed :

JAMES B. CAMPBELL, GEORGE BUIST AND OTHERS,

VS.

THE CITY COUNCIL OF CHARLESTON.

Decree filed July 15, 1853.

The bill and answer in this case, having been read, it is ordered and decreed, that so much of the city marsh land, at the west end of Broad Street, as lies between Rutledge Street on the east, Beaufain Street and lands of the estate of Strohecker on the North, Lynch Street on the west, and Broad Street on the south, be, and the same is hereby dedicated and set apart as a Common for the City of Charleston, and that the same be forever hereafter reserved and kept as a Common for the use of the inhabitants of the said city: *Provided*, That nothing herein shall be held to affect or interfere with any existing lease or leases of the said land.

And it is further ordered and decreed, that the injunction already issued against the City Council, in relation to the deposit of city offal at and near the west end of Broad Street, be, and the same is hereby continued of force until the first day of December next; and that either party have leave to apply for any further order at the foot of this decree.

And it is further ordered, that the rule issued against the City Council in this case, be discharged.

July 15, 1853.

F. H. WARDLAW.

XI. That afterwards, the injunction was extended and made perpetual, as follows:

JAMES B. CAMPBELL, GEORGE BUIST AND OTHERS,

VS.

THE CITY COUNCIL OF CHARLESTON.

On reading the affidavits herewith filed, and the decree of this Court of 15th July, 1853, on motion of Mr. Buist, Solicitor for complainants, it is ordered, that the injunction against the defendants, granted by said decree, be extended and made PERPETUAL.

March 10, 1856.

GEO. W. DARGAN.

THE STATE OF SOUTH CAROLINA,
County of Charleston,
IN THE COMMON PLEAS.

C. F. PANKNIN, GEORGE S. PELZER, B. O'NEILL,
W. E. HOLMES, B. A. MUCKENFUSS, F. P.
PORCHER,

vs.

THE CITY COUNCIL OF CHARLESTON.

The complainants, as above set forth, respectfully shews to this Honorable Court—

That they, together with Andrew Simonds, constitute the Board of Health of the City of Charleston, having been duly elected and qualified as members of said Board.

That by Section VI., Chapter X., of the Revised Ordinances of the City of Charleston, they have the power and authority to order or cause any building, excavation matter or thing, or the sewerage, drainage or ventilation thereof, which shall be regarded by the said Board as in a condition dangerous or detrimental to health, to be removed, suspended, altered or otherwise abated, as said Board shall direct.

That by orders of the Mayor of the City of Charleston, King Street, in said city, between Clifford and Queen, is now being opened and dug up, and excavated during the month of June, for the depression of the main gas pipes therein, and that by his orders the employees of the said City of Charleston are paving, grading and excavating the said street, during the month of June.

That the said actings and doings of the City Council of Charleston are in direct violation of Chapter LXX., Section 31.

That the Registrar and Executive Officer of the Board of Health, Dr. George S. Pelzer, did address an official communication to his Honor the Mayor, protesting against the aforesaid violation of the Ordinances of the said city.

That notwithstanding the said protest, his Honor the Mayor of said city, still persists in the violation of the said Ordinances.

Your complainants further complain—

That the offal of the said city is being deposited at a point not designated by this Board, and in opposition to the instructions and requests of said Board.

The complainants further state—

That the said actings and doings of the said Mayor of the City of Charleston, are in the opinion of the said Board seriously detrimental to the public health and to the great damage of the citizens of Charleston and interests of said city.

Wherefore your Board respectfully ask that in view of the premises and the irreparable nature of the injury, that a writ of injunction do issue under the seal of this Honorable Court, commanding and directing the City Council of Charleston to forthwith desist and stop the digging and opening and paving and excavating or grading of King Street, between Clifford and Queen Streets, and to restrain the said City Council of Charleston from depositing the offal of said city in any other point or place than such as may be designated by the said Board of Health.

GEORGE S. PELZER, M. D.,
BERNARD O'NEILL,
C. F. PANKNIN,

Committee of Board of Health.

MITCHELL & SMITH, *for Complainants.*

STATE OF SOUTH CAROLINA,
Charleston County,
IN THE COMMON PLEAS.

GEO. S. PELZER, BERNARD O'NEILL, C. F. PANKNIN,
vs.
THE CITY COUNCIL OF CHARLESTON.

On hearing the complaint herein, and on motion of Mitchell & Smith, attorneys for complainants,

It is ordered that the said City Council of Charleston do shew cause, if any they can, at the Court House in Charleston, on the 22d day of June instant, at the hour of twelve Meridian, why a writ of injunction shall not issue, directed to the said City Council of Charleston, their officers, agents, servants and employees, and the Mayor and Aldermen of said city, enjoining and restraining them from the digging and opening and paving and excavating and grading King Street, between Clifford and Queen Streets, and from depositing offal at the place mentioned in the said complaint, or at any places save such as may be designated by the Board of Health, in and for said city, and why the prayer of the complaint shall not be granted.

It is further ordered that the said City Council and their servants, officers, agents and employees, and the Mayor and Aldermen of said city, be and they are hereby restrained and enjoined from doing, performing and executing any of the acts hereinbefore mentioned, until the further order of this Court herein. And that a copy of this order be served upon the Mayor of the said City of Charleston.

T. J. MACKEY,

June 21st., 1878.

Presiding Judge.

A true copy.

JNO. H. OSTENDORFF,

C. C. P. & G. S.

THE STATE OF SOUTH CAROLINA,
Charleston County,
IN THE COMMON PLEAS.

GEO. S. PELZER, B. O'NEILL AND OTHERS,

vs.

THE CITY COUNCIL OF CHARLESTON.

Personally appeared before me P. B. Bacot, who, being duly sworn, deposes and says, that on the 21st day of June, A. D. 1878, the officers, agents and employees of the said City Council, continued digging and excavating the earth on King Street, between Clifford and Queen Streets, until the hour of six P. M.

P. B. BACOT.

Sworn to before me this 22d day of June, A. D. 1878.

JNO. H. OSTENDORFF,

C. C. P. & G. S.

A true copy.

JNO. H. OSTENDORFF,

C. C. P. & G. S.

THE STATE OF SOUTH CAROLINA,
Charleston County,
IN THE COMMON PLEAS.

GEO. S. PELZER, B. O'NEILL, C. F. PANKNIN, W. E.
HOLMES, B. A. MÜCKENFUSS AND F. P. PORCHER.

vs.

THE CITY COUNCIL OF CHARLESTON.

On hearing the Return to the Order made herein on the 21st day of June, 1878, argument on both sides having been made,

It is ordered that the Restraining Order hereinbefore made be and the same is made perpetual, and that the said City Council of Charleston and the Mayor and Aldermen thereof, their officers, agents, servants and employees, be and the same are hereby restrained and enjoined from the digging, opening, paving and excavating and grading King Street, between Clifford and Queen Streets, mentioned in the complaint herein, and from depositing offal at the places mentioned in said complaint or at any place or places, save such as may be designated by the Board of Health.

June 22, 1878.

A true copy.

T. J. MACKEY,
Circuit Judge.

JNO. H. OSTENDORFF,
C. C. P. & G. S.

STATE OF SOUTH CAROLINA,
County of Charleston,
IN THE COMMON PLEAS.

C. F. PANKNIN, GEORGE S. PELZER, B. O'NEILL, W. E.
HOLMES, B. A. MUCKENFUSS, F. P. PORCHER,

vs.

THE CITY COUNCIL OF CHARLESTON.

Complaint for Injunction.

The City Council of Charleston, by W. W. Sale, Mayor of the said city, answering the Rule herein to show cause why the prayer of the complaint herein should not be granted, for cause shows:

1st. That the proceedings upon which the said Order was granted, are without warrant in law in this, that the said Board of Health is a creature of the City Council of Charleston, and all proceedings to abate any nuisance or restrain any wrong should be in the name and by the authority of the said City Council of Charleston.

2d. That the complaint upon which the said Order to show cause was issued, was not preceded or accompanied by a summons, as is required by law, and the said action has not been commenced.

3rd. That the plaintiffs herein have not given the security required by law.

For a further return, the defendant says:

1st. That the work of grading the street named in the complaint, was commenced before the 1st June, 1878, and it is necessary for the public health that the said work should be finished, and that no excavations are being made by the said City Council of Charleston, nor has any action been taken by them, except to contribute to the expense of lowering certain mains of the Charleston Gas Company in the said street.

2d. That the deposit of offal complained of in the said complaint, is now being deposited as is required by law, and is not detrimental to the public health and besides being deposited according to law, is so deposited at the special instance and request of the persons living in the vicinity of said deposit.

W. W. SALE, *Mayor*.

Subscribed and sworn to before me this 22d June, 1878.

BLAKE L. WHITE, *Notary Public*.

A true copy.

JNO. H. OSTENDORFF,
C. C. P. & G. S.

THE STATE OF SOUTH CAROLINA,
Charleston County,
IN THE COMMON PLEAS.

GEO. S. PELZER, B. O'NEILL, C. F. PANKNIN AND
OTHERS,

vs.

THE CITY COUNCIL OF CHARLESTON.

On motion of Mitchell & Smith—

It is ordered that the Order heretofore made herein on the 22d day of June, 1878, be modified so as to permit the grading and paving of the part of King Street, in the said Order mentioned, to be carried on and completed in such manner and to such extent as may be sanctioned by the Board of Health of the City of Charleston.

T. J. MACKEY.

Presiding Judge.

June 26th, 1878.

A true copy.

JNO. H. OSTENDORFF,
C. C. P. & G. S.

That the said [Name] is a resident of the State of South Carolina, and that he is a citizen of the United States, and that he is a resident of the County of [County Name], and that he is a resident of the City of [City Name], and that he is a resident of the Town of [Town Name], and that he is a resident of the Parish of [Parish Name], and that he is a resident of the Precinct of [Precinct Name], and that he is a resident of the Ward of [Ward Name], and that he is a resident of the Block of [Block Name], and that he is a resident of the Lot of [Lot Name], and that he is a resident of the [Address], and that he is a resident of the [City], and that he is a resident of the [County], and that he is a resident of the [State], and that he is a resident of the [Country].

THE STATE OF SOUTH CAROLINA

Charleston County

That the said [Name] is a resident of the State of South Carolina, and that he is a citizen of the United States, and that he is a resident of the County of [County Name], and that he is a resident of the City of [City Name], and that he is a resident of the Town of [Town Name], and that he is a resident of the Parish of [Parish Name], and that he is a resident of the Precinct of [Precinct Name], and that he is a resident of the Ward of [Ward Name], and that he is a resident of the Block of [Block Name], and that he is a resident of the Lot of [Lot Name], and that he is a resident of the [Address], and that he is a resident of the [City], and that he is a resident of the [County], and that he is a resident of the [State], and that he is a resident of the [Country].



